

Message Text

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ACTION NEA-11

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TO SECSTATE WASHDC IMMEDIATE 8002
INFO AMEMBASSY TEHRAN

C O N F I D E N T I A L ABU DHABI 1701

E.O. 11652: GDS
TAGS: ENRG, EINV, IR, TC
SUBJECT: CRESCENT PETROLEUM PROBLEM

REF: (A) ABU DHABI 1667, (B) TEHRAN 5639, (C) STATE 150195

SUMMARY: AS RESULT OF LATEST DISCUSSIONS BETWEEN CRESCENT
AND RULER OF SHARJAH, LATTER HAS AGREED TO TRY ARRANGE
EARLY MEETING AMONG CRESCENT SHAREHOLDERS, SHARJAH, AND
NIOC TO REVIEW ECONOMIC CONSIDERATIONS. NEITHER CRESCENT
NOR RULER OF SHARJAH OPTIMISTIC MEETING WILL ACHIEVE ANY
RESULTS BUT BELIEVE IT WILL AT LEAST PUT ALL ISSUES AGAIN
ON TABLE. END SUMMARY

1. BUTTES PRESIDENT BORETA AND CRESCENT MANAGING DIRECTOR
JAAFAR CALLED ON EMBASSY JUNE 14 TO CONVEY RESULTS THEIR
LATEST DISCUSSIONS PREVIOUS EVENING WITH RULER OF SHARJAH,
SHAIKH SULTAN. BORETA SAID HE HAD VERY LIMITED LEEWAY
FROM CRESCENT PARTNERS AND PURPOSE OF HIS VISIT WAS TO
CONVEY JUST THAT TO SHAIKH SULTAN. AT STATE DEPT'S
INCOURAGEMENT, BORETA SAID, HE ALSO WISHED TO SEE IF HE
COULD FIND SOME METHOD "OTHER THAN THE LEGALISTIC/ANTAGONISTIC
APPROACH FOR ARBITRATION" TO RESOLVE DISPUTE.

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2. BORETA SAID HE TOLD SHAIKH SULTAN THAT PARTNERS
APPRECIATED RULER'S LAST PROPOSAL THAT CRESCENT AGREE PAY
77/14.5 PERCENT TAX AND ROYALTY FROM FEBRUARY 25, 1978,
LEAVING DATE OF ULTIMATE RETROACTIVITY TO NEGOTIATION (PARA
2 REF A). BORETA FELT THIS MIGHT LEAD TO A RESOLUTION OF
THE PORBLEM; HOWEVER, RULER OFFERED NOTHING SPECIFIC ON HOW

THESE NEGOTIATIONS WOULD BE CONDUCTED OR CONCLUDED AND PARTNERS FELT THEY COULD NOT ACCEPT PROPOSAL BECAUSE THEY HAD NO ASSURANCE THAT RETROACTIVITY PROBLEM WOULD BE RESOLVED SATISFACTORILY. WERE THEY TO ACCEPT NEW TAX AND ROYALTY RATES AND LATER SHARJAH WERE TO COME BACK FOR MORE RETRO-ACTIVITY, PARTNERS WOULD HAVE GIVEN UP SOMETHING (I.E. ARBITRATION) WITHOUT RECEIVING ANYTHING CONCRETE IN RETURN. THUS THEY WOULD BE IN MUCH LESS FAVORABLE POSITION THAN IF THEY PURSUE ARBITRATION. BORETA HAD POINTED OUR TO RULER THAT LEGAL ADVICE TO CRESCENT WAS THAT ARBITRATION OF ECONOMIC ISSUES WOULD STILL LIKELY BE MORE FAVORABLE FOR COMPANY THAN RULER'S LATEST PROPOSAL UNLESS ASSURANCES RECEIVED THERE WOULD BE NO RETROACTIVITY.

3. RULER HAD AGAIN OBJECTED TO CRESCENT'S INTRANSIGENCEANCE AND HAD ARGUED THAT TAX AND ROYALTY WAS NOT SUBJECT TO ARBITRATION. BORETA AND JAAFAR HAD AGAIN POINTED OUT THAT RULER HAD SIGNED AWAY ANY POSSIBLE SOVEREIGN RIGHT HE MIGHT HAVE HAD BY AGREEING TO ARBITRATION UNDER 1968 CONCESSION AGREEMENT. TO RULER'S QUESTION WHY IT WAS THAT OIL COMPANIES ELSEWHERE SEEMED TO HAVE ACCEPTED A HIGHER TAX AND ROYALTY RATHER THAN INSIST ON ARBITRATION EVEN THOUGH THEIR CONCESSION AGREEMENTS PERMITTED THIS, JAAFAR SAID HE ASSUMED IT MATTER OF ECONOMICS. THOSE COMPANIES HAD BEEN FACED WITH ALTERNATIVE OF EITHER ACCEPTING INCREASE IN TAX AND ROYALTY OR FACING NATIONALIZATION. IN MANY CASES, SIZE OF FIELD
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SUFFICIENTLY LARGE THAT COMPANIES COULD CONTINUE TO OPERATE PROFITABLY EVEN WITH HIGHER TAX AND ROYALTY BITE. IN CRESCENT'S CASE, HOWEVER, NATIONALIZATION AND COMPENSATION WOULD YIELD MORE MONEY TO PARTNERS THAN WOULD CONTINUED OPERATION OF CONCESSION WITH UNPROFITABLE HIGHER TAX RATES APPLIED RETRO-ACTIVELY. WHEN SHAIKH SULTAN HAD THEN ASKED WHY HE SHOULD NTW NATIONALIZE, HE HAD BEEN TOLD THAT PARTNERS WOULD PREFER TO BE NATIONALIZED THAN FACE FUTURE RISK INHERENT IN ACCEPTING NEW TAX AND ROYALTY WHILE LEAVING RETROACTIVITY UNSETTLED.

4. SHAIKH SULTAN HAD REPEATED THAT HE UNDER GREAT DEAL OF PRESSURE FROM NIOC WHICH SUSPECTS THAT BUTTES TRYING TO DRAG ON NEGOTIATIONS AND GET AS MUCH OIL OUT OF GROUND IN MEANTIME AND THAT IT NOT SPEAKING FOR OTHER PARTNERS "WHO ARE MORE FLEXIBLE." BORETA HAD DENIED THIS AND OFFERED PROPOSAL TO HAVE AN INDEPENDENT CONSULTANT COME TO SHARJAH AND MAKE ECONOMIC ANALYSIS TO DETERMINE CONCESSION'S PROFITABILITY. SHAIKH SULTAN REJECTED THIS BUT THEN AGREED THAT THERE BE DISCUSSIONS BETWEEN CRESCENT, SHARJAH AND NIOC EITHER IN SHARJAH OR THE U.S. BOETA HAD BEEN IN CONTACT PREVIOUS EVENING WITH PARTNERS AND HAD NOW TOLD SHAIKH SULTAN THAT MEETING COULD BE HELD AS EARLY AS NEXT WEEK IF HELD IN U.S. OR NEXT

MONTH IF HELD IN SHARJAH. SHAIKH SULTAN SAID HE WOULD CONTACT NIOC AND INFORM BORETA IN NEXT DAY OR TWO WHEN AND WHERE MEETING TO TAKE PLACE.

5. BORETA SAID HE DID NOT EXPECT MEETING WITH NIOC WOULD RESULT IN ANY CHANGE IN ITS POSITION. HE SAID SHAIKH SULTAN ALSO APPEARED SHARE THIS VIEW. ON OTHER HAND, IT WOULD AGAIN BE OPPORTUNITY FOR ALL OF CRESCENT'S PARTNERS TO PUT ALL ECONOMIC FACTORS RELATED TO DISPUTE ON THE TABLE. BORETA ADDED THAT IN PAST COMPANY HAS CHALLENGED NIOC TO DOCUMENT ITS CLAIM THAT CRESCENT MAKING GREATER PROFITS THAN OTHER CONCESSIONAIRES BUT THAT NIOC HAS BEEN UNWILLING OR UNABLE TO RESPOND.

6. BORETA MENTIONED THAT PARTNERS HAD NOT YET SUBMITTED LETTER
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TO PRESIDENT OF ICJ ASKING HIM TO APPOINT AN ARBITRATOR FOR SHARJAH SIDE, PENDING OUTCOME OF BORETA VISIT TO SHARJAH. COMPANY'S LAWYERS, HOWEVER, WERE PRESSING CRESCENT TO DO SO SINCE DELAY MIGHT WEAKEN CRESCENT'S LEGAL CASE. HE HAD NOT YET MENTIONED THIS TO RULER OF SHARJAH AND ASKED ME FOR MY VIEWS. I SAID THAT RULER SHOULD AT LEAST BE TOLD THAT THIS LETTER IS IN WINGS. BORETA FEARED THAT RULER --AND NIOC AS WELL -- WOULD CONSIDER DESPTACH OF THIS LETTER AS AN UNFRIENDLY ACT, ESPECIALLY WHEN DISCUSSION PENDING OF ECONOMIC CONSIDERATIONS IN DISPUTE. ON OTHER HAND, BORETA ALSO FELT LETTER AND SUBSEQUENT APPOINTMENT OF ARBITRATOR MIGHT SERVE AS PRESSURE TO GET SHARJAH TO COME TO SOME KIIND OF SETTLEMENT. WE UNCERTAIN WHAT CRESCENT WILL DO ON THIS ONE.

7. COMMENT: ASSUMING NIOC AGREES, DECISION TO HAVE DISCUSSIONS BETWEEN CRESCENT AND NIOC EITHER IN US OR SHARJAH EFFECTIVELY ANSWERS PARA 2 OF REF C. REGARDING EMBASSY TEHRAN'S COMMENTS IN REF B THAT IT SEES NO FURTHER ROLE IT CAN PLAY IN THESE PROCEEDINGS UNLESS CRESCENT COME TO GRIPS DIRECTLY WITH NIOC, WE AGREE THAT EMBASSY CANNOT ARGUE CRESCENT'S BRIEF ON ECONOMIC ISSUES. HOWEVER, WE TRUST EMBASSY AS WELL AS DEPARTMENT WILL MAKE CLEAR TO IRANIANS THAT (A) USG DOES NOT ACCEPT VALIDITY OF NIOC CONTENTION THAT TAX AND ROYALTY MATTERS PERTAINING TO CONCESSION TERMS ARE NOT SUBJECT TO ARBITRATION AND (B) CONTINUED NIOC INSISTENCE THAT RULER REJECT ARBITRATION IS UNHELPFUL AND IN OUR VIEW MISTAKEN APPROACH.
DICKMAN

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